

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4670 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?  
Nos. 1 to 5 No.

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MAHENDRAKUMAR A PATEL

Versus

STATE OF GUJARAT THROUGH SECRETARY

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Appearance:

MR.H.R.PRAJAPATI FOR M/S THAKKAR ASSOC. for Petitioner  
MR.NEEGAM SHUKLA, AGP for Respondents.

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CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 06/11/96

ORAL JUDGEMENT

This Special Civil Application is directed against the order dated 6.5.1996 passed by the District Magistrate, Mehsana whereby the petitioner has been detained under the provisions of Gujarat Prevention of Antisocial Activities Act, 1985. The detention order was executed on 5.8.1996 and since then the petitioner is

under detention lodged at Junagadh District Jail.

This Special Civil Application was filed on 4.7.1996 and on 2.8.1996 Rule returnable for 4th September, 1996 was issued. So far no reply or affidavit of the Detaining Authority has been filed.

The grounds enclosed with the detention order show that two criminal cases were registered against the petitioner under Bombay Prohibition Act. Besides this the Detaining Authority has also taken into consideration the statements made by five witnesses on 6.4.1996, 13.4.1996 and 14.4.1996. The petitioner has been found to be engaged in antisocial activities and of unauthorised business of liquor. The petitioner has been detained as bootlegger. The detention order has been challenged on more than one grounds but the learned Advocate for the petitioner has stressed that no case of breach of public order has been made out. In view of the reasons contained in the judgment dated 4.10.1996 in Special Civil Application No. 3879 of 1996, it is clear that that the allegation and material relied upon by the Detaining Authority against the petitioner do not constitute a case of breach of public order and it is at the most breach of law and order. The detention order therefore deserves to be quashed and set aside on this ground alone.

Accordingly this Special Civil Application is allowed. The impugned detention order dated 6.5.1996 passed by the District Magistrate, Mehsana is hereby quashed and set aside. The petitioner's detention order is declared to be illegal. The respondents are directed to releaase the petitioner and set him at liberty forthwith if not required in any other case. Rule is made absolute.

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